

**TAB C**

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION  
NO. 04 11402 NMG

CYCLE-CRAFT CO., INC., D/B/A  
BOSTON HARLEY-DAVIDSON/BUELL,

Plaintiff,

vs.

HARLEY-DAVIDSON MOTOR COMPANY, INC.  
AND BUELL DISTRIBUTION COMPANY, LLC,

Defendants.

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Rice Pugatch Robinson & Schiller, P.A.  
33 N.E. 2nd Street  
Suite 101  
Fort Lauderdale, Florida  
Friday, February 25, 2005  
Scheduled for 1:00 a.m.  
Commenced at 1:13 p.m. to 3:05 p.m.

VIDEOTAPED DEPOSITION

OF  
MICHAEL STEVENS

**COPY**

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1 DC Imports?

2 A. It was.

3 Q. But prior to joining DC Imports, you didn't  
4 have any conversations with anybody who --

5 A. No.

6 Q. -- had worked at Boston Harley Davidson?

7 A. No.

8 Q. So once you started working at DC Imports,  
9 you had a - conversations with Mr. Buchbaum?

10 A. Correct.

11 (Cellular telephone interruption.)

12 MR. REHNQUIST: My apologies. It's a new  
13 phone and I don't quite have it mastered.

14 THE WITNESS: I don't think you have it  
15 mastered.

16 MR. REHNQUIST: They master you, I think.  
17 Sorry.

18 THE WITNESS: Yes.

19 BY MR. BENSON:

20 Q. Can you recall whether he called you, you  
21 called Mr. Buchbaum?

22 A. I called him.

23 Q. Why did you call Mr. Buchbaum?

24 A. To purchase units.

25 Q. And how did you get Mr. Buchbaum's

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1       telephone number?

2       A.       It's on the Internet.

3       Q.       So you looked on the Internet, correct?

4       A.       Initially - initially, I wanted to purchase  
5       police return fleets. Boston Harley has quite a large  
6       return fleet. We at Fort Lauderdale was -- is the  
7       biggest police fleet. Boston is probably fourth or  
8       fifth behind other dealers, so, originally, that was  
9       the -- that was the initial phone call.

10      Q.       Okay.

11            MR. REHNQUIST: Do we have a time frame on  
12       this, Bill?

13      Q.       Do you recall when you called Mr. Buchbaum?

14      A.       Sometime in 2002, I mean, I don't have the  
15       exact month.

16      Q.       And we may look at some documents that may  
17       refresh your memory --

18      A.       Sure.

19      Q.       -- the year may be different than what  
20       we --

21      A.       It may be, yeah.

22      Q.       So you called Mr. Buchbaum up and you  
23       wanted to purchase units?

24      A.       Right.

25      Q.       How did he respond?

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1           A.       Initially, he did not want to sell any of  
2       his police bikes or used bikes, because they had --  
3       they were retailing them pretty successfully.

4           Q.       And was that your first conversation with  
5       Mr. Buchbaum?

6           A.       Right.

7           Q.       Did you have a subsequent conversation with  
8       Mr. Buchbaum?

9           A.       Yeah.

10          Q.       How long after the first conversation do  
11       you have another conversation with Mr. Buchbaum?

12          A.       I mean, I'm speculating, maybe a week.

13          Q.       Okay. And on the second conversation, did  
14       he call you or did you call him back?

15          A.       I called him.

16          Q.       Okay. And what did you discuss during that  
17       second conversation?

18          A.       I offered to purchase new units, I would  
19       take as many as he would sell and whatever he wanted  
20       to sell.

21          Q.       Okay. And during this conversation, did  
22       you advise Mr. Buchbaum that you worked for  
23       DC Imports?

24          A.       Yes.

25          Q.       Okay. And during your first conversation,

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1 did you advise Mr. Buchbaum that you worked for  
2 DC Imports?

3 A. Yes.

4 Q. Okay. And did you -- did Mr. Buchbaum --  
5 did you describe what DC Imports was?

6 A. Yeah.

7 Q. Okay. What did you tell Mr. Buchbaum about  
8 DC Imports?

9 A. That we were wholesalers and registered  
10 importers.

11 Q. And how did Mr. Buchbaum respond?

12 A. I can't remember.

13 Q. Okay. Did he ask any other questions about  
14 DC Imports?

15 A. I'm sure he did. I don't -- I mean, I  
16 don't remember offhand.

17 Q. Okay. So when you advised that you wanted  
18 to purchase new motorcycles from Boston Harley  
19 Davidson, how did Mr. Buchbaum respond?

20 A. He said he would look into it and get back  
21 to me.

22 Q. Anything else you recall from that second  
23 conversation?

24 A. Not really, no.

25 Q. Okay. Did you have a subsequent

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1 conversation with Mr. Buchbaum?

2 A. I did.

3 Q. And how long after the second conversation  
4 did you talk with Mr. Buchbaum?

5 A. Again, I'm probably guessing, but I would  
6 say within a short time frame, several days.

7 Q. And did he call you or did you call him?

8 A. He contacted me.

9 Q. And what did he tell you during this third  
10 conversation?

11 A. That if I was interested in buying a large  
12 amount of Sportsters, he would sell me some other  
13 units in a package deal.

14 Q. And these were new Harley Davidson  
15 motorcycles?

16 A. Yes, they were.

17 Q. And he advised that Boston Harley was  
18 willing to sell these new motorcycles to DC Imports?

19 A. He said he was willing to. I don't know  
20 if -- I mean, I'm sure they're coming from Boston  
21 Harley, but...

22 Q. Do you recall what Mr. Buchbaum's title was  
23 at Boston Harley?

24 A. He was either sales or general manager, one  
25 of the -- one of those, GSM, somewhere in that.

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1 Q. Okay. So he advised you that Boston Harley  
2 was willing to sell new motorcycles to DC Imports?

3 A. Correct.

4 Q. Okay. Did he advise how many motorcycles  
5 he was willing to sell?

6 A. 19.

7 Q. And how did you respond once he advised you  
8 that he was willing to sell 19 new motorcycles to  
9 DC Imports?

10 A. I brought it to the attention of the owners  
11 of DC Imports and they told me that we would do it.

12 Q. And you brought it to the attention of Miss  
13 Lunsford?

14 A. And Miss Cooke.

15 Q. And were they together or separate when  
16 you --

17 A. Together.

18 Q. And how did they respond?

19 A. They said they wanted to talk to a few  
20 people about it and call me right back.

21 Q. Okay. And did they call you right back?

22 A. Yep.

23 Q. And what did they advise?

24 A. To purchase.

25 Q. And was that from Miss Lunsford, Miss Cooke

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1 or both?

2 A. Both.

3 Q. So Miss Lunsford and Miss Cooke called you  
4 back and said to go ahead and purchase the motorcycles  
5 from Boston Harley Davidson?

6 A. Correct.

7 Q. And after you talked with Miss Lunsford and  
8 Miss Cooke, did you have a subsequent conversation  
9 with Mr. Buchbaum?

10 A. Yes. I told him that we would have a deal.

11 Q. And how did Mr. Buchbaum respond?

12 A. He said that it wouldn't be a problem. I  
13 told him that funds would come through Miss Cooke and  
14 Miss Lunsford would handle all funding for the units,  
15 and basically he told me he just needed individual  
16 names for each SRW.

17 Q. And what is an SRW or SWR?

18 A. It's a Harley Davidson warranty form,  
19 basically stating that the bike is purchased in that  
20 individual's name.

21 Q. So Mr. Buchbaum advised you that he needed  
22 individual names for each SWR?

23 A. And that would be the only way we could  
24 purchase the bikes.

25 Q. Okay. But you advised him that DC Imports

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1       was the entity that was actually going to purchase the  
2       motorcycles?

3                    MR. REHNQUIST: Objection, leading.

4                    Q.        You can answer it.

5                    A.        Yeah. I mean, he -- I told him the first  
6        two conversations. I'm sure he knew it was DC Imports  
7        that was making the purchases.

8                    Q.        So during the first two conversations you  
9        did advise Mr. Buchbaum that DC Imports was the entity  
10      purchasing the motorcycles?

11                  MR. REHNQUIST: Objection, leading.

12                  A.        Yes.

13                  Q.        And how did -- what did you say to  
14      Mr. Buchbaum after he advised you he needed individual  
15      names for the SWRs?

16                  A.        That I would speak to Miss Lunsford and  
17      Cooke and see what I could come up with.

18                  Q.        Okay. And did you talk with Miss Lunsford  
19      and Miss Cooke?

20                  A.        I did.

21                  Q.        And can you recall that conversation with  
22      me -- for me?

23                  A.        We compiled a list of -- including  
24      ourselves and friends and family to amount to 19  
25      names.

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1 Q. You were one of those 19 names?

2 A. I was.

3 Q. Did you have any intention of buying a  
4 motorcycle yourself?

5 A. No. I had two at the time.

6 Q. Okay. So why did you use your name?

7 A. In order to purchase the bikes to make  
8 money.

9 Q. In order for DC Imports to purchase the  
10 bikes?

11 A. Correct.

12 MR. REHNQUIST: Objection.

13 Q. Do you recall what other names that you  
14 used?

15 A. Everybody in the office, all six employees.

16 Q. And then you had to come up 13 other  
17 individuals' names?

18 A. Correct.

19 Q. How did you get those other 13?

20 A. Friends and relatives.

21 Q. Any of your friends or relatives?

22 A. Yeah, my mother, my grandfather.

23 Q. What was your mother's name?

24 A. Caroline Cagnina.

25 Q. And what was your grandfather's name?

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1 A. Edward Stevens.

2 Q. Did your mother have any intention of  
3 purchasing a motorcycle?

4 A. No.

5 Q. Did she provide any funds to purchase these  
6 motorcycles?

7 A. No.

8 Q. Did your grandfather have any intention of  
9 purchasing a motorcycle?

10 A. No.

11 Q. Did he provide any funds to purchase a  
12 motorcycle?

13 A. No.

14 Q. And did you provide any funds to purchase  
15 any motorcycle?

16 A. No.

17 Q. Where did the funds come from, if you  
18 recall?

19 A. DC Imports.

20 Q. Any other of your relatives' names that you  
21 used besides your mother and grandfather?

22 A. No.

23 Q. Did you use any of your friends' names?

24 A. No. They used their friends and family for  
25 the rest.

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1 Q. After Mr. Buchbaum advised you that he  
2 needed individual names for the SWRs, did you have a  
3 subsequent conversation with Mr. Buchbaum?

4 A. Once I had compiled the list of 19 names,  
5 yes.

6 Q. Can you recall that conversation for me?

7 A. Basically just handling the formalities.  
8 He told us what he would be sending us, how to fill  
9 out the warranty forms, what had to be signed where  
10 and that was basically all I handled on my end.

11 Q. So Mr. Buchbaum advised you that he would  
12 be sending you warranty forms?

13 A. Warranty forms and new bike purchase  
14 orders.

15 Q. So the warranty forms, Mr. Buchbaum advised  
16 you he'd send you the SWRs?

17 MR. REHNQUIST: Objection.

18 A. The ones that -- the forms that the  
19 customer's supposed to sign.

20 Q. Okay. And what else did he advise that he  
21 would send down to you?

22 A. The buyer's order.

23 Q. Okay. And did he advise what he wanted  
24 DC Imports to do with these forms?

25 A. He had told me where each individual should

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1 sign and he highlighted the areas, or had somebody  
2 highlight them and mail them to me.

3 Q. And so did you receive warranty forms from  
4 Boston Harley Davidson?

5 A. I did.

6 Q. And was there a cover note with them?

7 A. I don't recall.

8 Q. Do you recall that they were highlighted?

9 A. I believe, yeah.

10 Q. And what was the significance of the  
11 highlighting?

12 MR. REHNQUIST: Objection, foundation.

13 A. To verify where to sign.

14 Q. And did Mr. Buchbaum advise you that's  
15 where the customers should sign their names?

16 A. He had told me that he was going to mark  
17 where -- where they should be signed and printed.

18 Q. And once you got these forms from Boston  
19 Harley Davidson, what did you do with them?

20 A. Had each individual fill them out.

21 Q. And did you fill one out yourself?

22 A. I did.

23 Q. And after you filled out these forms, what  
24 did you do with them?

25 A. Overnighted them back to Mr. Buchbaum.

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1 Q. And did you have a cover note with those  
2 SWRs?

3 A. I don't remember.

4 Q. And did you send them by Federal Express or  
5 some other overnight service?

6 A. One of them. One. I'm not positive who we  
7 used at the time.

8 Q. Do you recall what else you sent back to  
9 Boston Harley Davidson?

10 A. That was it. That's all I sent back.

11 Q. Did you have any conversations with  
12 Mr. Buchbaum between the time that he sent you the  
13 warranty forms and the time that you sent them back to  
14 him?

15 A. No, not until he received them.

16 Q. And then once he received them, did he give  
17 you a call?

18 A. Either he called me or I called him. I'm  
19 not a hundred percent sure, but I know we were trying  
20 to establish shipping, how we were going to ship the  
21 units.

22 Q. So you had another conversation with  
23 Mr. Buchbaum. Did he advise you he had received the  
24 SWRs?

25 A. He did.

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1 Q. And what else did you discuss during that  
2 conversation?

3 A. How we were going to go about shipping the  
4 units to Florida.

5 Q. And where would the units be shipped to?

6 A. DC Imports.

7 Q. And did you advise Mr. Buchbaum to ship the  
8 units to DC Imports?

9 A. We subcontracted the shipping company.

10 Q. And did you advise Mr. Buchbaum what the  
11 shipping company was?

12 A. I believe I did.

13 Q. And do you recall who you used?

14 A. I'm not sure. We used several people back  
15 then, so I'm not a hundred percent sure who we used at  
16 the time.

17 Q. And anything else you can recall from that  
18 conversation with Mr. Buchbaum?

19 A. No, not offhand.

20 Q. Did you have another conversation with  
21 Mr. Buchbaum after that?

22 A. I believe just in regards to the bikes  
23 being shipped, leaving the dealership.

24 Q. And did he call you or did you call him?

25 A. I don't remember.

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1 Q. So you had another conversation with  
2 Mr. Buchbaum in which he advised that the bikes were  
3 being shipped?

4 A. The bikes had been picked up. Most likely  
5 I probably followed up and contacted him.

6 Q. And what do you recall about Mr. Buchbaum  
7 advised you?

8 MR. REHNQUIST: Objection.

9 A. I don't really - just probably that the  
10 bikes had left the dealership.

11 Q. Do you recall any conversations you had  
12 with Mr. Buchbaum concerning what DC Imports wanted to  
13 do with these 19 motorcycles?

14 MR. REHNQUIST: Objection.

15 A. No.

16 Q. Did you have any further conversations with  
17 Mr. Buchbaum?

18 A. Not that I can recall.

19 Q. Did you ever have any conversations  
20 concerning the price for these motorcycles?

21 A. Yes.

22 Q. And was that with Mr. Buchbaum?

23 A. Yes.

24 Q. Can you describe what those conversations  
25 entailed?

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1           A.        I made him an initial offer in the earlier  
2        phone calls for the bikes. Once he had told me he  
3        would sell them to us, I made him an offer on the  
4        units.

5           Q.        So once Mr. Buchbaum advised that he would  
6        sell the 19 motorcycles to DC Imports, you made  
7        initial offer?

8                    MR. REHNQUIST: Objection, leading.

9           A.        Right.

10          Q.        And do you recall what that initial offer  
11        was?

12          A.        I'm not a hundred percent sure, but was  
13        somewhere around MSRP.

14          Q.        And how did Mr. Buchbaum respond?

15          A.        He needed to contact me back in order to  
16        verify that he could make the deal.

17          Q.        And during a subsequent conversation, did  
18        he verify the price for you?

19          A.        We agreed on the deal, and he believe -- I  
20        believe he faxed to me a price sheet.

21          Q.        So you received a fax from Boston Harley  
22        Davidson, correct?

23          A.        Correct.

24          Q.        And what was included in that fax?

25          A.        Just the models and the colors and the

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1       prices. I think maybe the VIN numbers, but don't  
2       quote me.

3       Q.       Was it a one-page fax?

4       A.       One page.

5       Q.       Was there a cover note on that fax?

6       A.       I don't believe so.

7       Q.       Anything else that you recall that was on  
8       that fax?

9       A.       No, just models, information, basically,  
10      and price.

11      Q.       So there was a price for each of the  
12      individual 19 bikes that Boston Harley was going to  
13      sell to DC Imports?

14      A.       Correct.

15      Q.       And that was a price that you had agreed  
16      with Mr. Buchbaum on?

17      A.       Correct.

18      Q.       Okay. Did you have any conversations with  
19      Mr. Buchbaum concerning the payment for the bikes?

20      A.       Only that I explained that the two owners  
21      at DC Imports would handle payment.

22      Q.       Did you discuss with them how he wanted  
23      payment to be handled?

24      A.       I didn't discuss with him, but from what I  
25      understand it was a wire transfer, I believe, I may be

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1 wrong. It's been awhile, so...

2 Q. Did you have any conversations with either  
3 Ms. Lunsford or Ms. Cooke concerning payment to Boston  
4 Harley Davidson?

5 A. Only to verify that it was made.

6 Q. And did you have any conversations with Gus  
7 about payment?

8 A. Not that I remember.

9 Q. Besides -- and I might have asked you this  
10 before -- besides Mr. Buchbaum, did you have any  
11 conversations with any other representative of Boston  
12 Harley Davidson?

13 A. No.

14 Q. Do you recall any other conversations you  
15 had with Mr. Buchbaum concerning the structure of the  
16 deal?

17 MR. REHNQUIST: Object to the form.

18 A. No.

19 Q. Did you have any conversations with  
20 Mr. Buchbaum concerning why Boston Harley wanted to  
21 sell motorcycles to DC Imports?

22 MR. REHNQUIST: Object to the form,  
23 foundation.

24 A. No, I don't, I don't believe so.

25 Q. Do you recall having a conversation with

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## 1 REDIRECT EXAMINATION

2 BY MR. BENSON:

3 Q. Now, the deal that you reached with  
4 Mr. Buchbaum, that was a deal between DC Imports and  
5 Boston Harley Davidson, correct?

6 MR. REHNQUIST: Object to the form. Object  
7 to the form, leading.

8 A. Correct.

9 Q. What's that?

10 A. Correct.

11 Q. And Mr. Buchbaum sent you a fax confirming  
12 the prices that Boston Harley was willing to sell the  
13 19 motorcycles for, correct?

14 A. Right.

15 MR. REHNQUIST: Object to form.

16 Q. And it was Mr. Buchbaum who advised that  
17 you had to get 19 individual names before he would  
18 sell the 19 bikes to DC Imports?

19 MR. REHNQUIST: Object to the form.

20 A. Yes.

21 MR. BENSON: I have nothing further.

22 MR. REHNQUIST: Nothing further.

23 THE WITNESS: Wonderful.

24 MR. BENSON: Thanks for your time,  
25 Mr. Stevens.